

1950

c 80 Crown Administration of Estates Act

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CHAPTER 80

The Crown Administration of Estates Act

1. Where in the case of any person dying intestate or Where administration may issue to Public Trustee. intestate as to some part of his estate it appears that in respect of the interest of His Majesty administration may be rightfully granted to his nominee, any competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of His Majesty. R.S.O. 1937, c. 116, s. 1.

2. Where any person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are infants and there is no near relative in Ontario willing and competent to apply for a grant of administration or to nominate some person to apply for the same, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and any competent court upon the application may grant administration to the Public Trustee for the use and benefit of His Majesty or of such persons as may ultimately appear to be entitled thereto, but where there are adult next of kin residing out of Ontario administration may be granted to the nominee of such next of kin at the discretion of the court. R.S.O. 1937, c. 116, s. 2. Administration where intestate leaves no known adult next of kin in Ontario.

3.—(1) Notice of every application for letters of administration of the estate of a person who has died in Ontario intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within 30 days after the receipt of the notice, apply for a grant of letters of administration as provided in section 2. Notice to Public Trustee.

(2) Where the Public Trustee consents, letters of administration may issue to the applicant without waiting for the expiry of 30 days. R.S.O. 1937, c. 116, s. 3. Letters of administration within 30 days.

4. It shall not be necessary for the Public Trustee to give security for the due administration of the estate, but he shall have all the rights and powers of and be subject to all the liabilities and duties imposed on an administrator. R.S.O. 1937, c. 116, s. 4. Security dispensed with.

Power to sell
the real
estate of the
intestate.

5. Where administration is granted to the Public Trustee the Lieutenant-Governor in Council may direct the sale, by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee shall thereupon be authorized to sell in accordance with the directions of the Order in Council the whole, or any part of the real estate or interest, and to convey the same to the purchaser, and every conveyance by the Public Trustee shall be as valid and effectual as if the deceased were alive at the time of the making thereof and had executed the same. R.S.O. 1937, c. 116, s. 5.

Rights of
relations
after the
issue of ad-
ministration.

6. Where subsequently to the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant-Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance, and until the revocation of the letters granted the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1937, c. 116, s. 6.

Inquiry as to
the rights of
His Majesty.

7. Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as may be necessary to determine whether or not His Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin, or otherwise, and any judgment pronounced upon such inquiry shall, unless reversed on appeal, or varied upon a substantive application to the court, be final and conclusive. R.S.O. 1937, c. 116, s. 7.

Recovery by
Crown of real
estate of
persons dy-
ing intestate
and without
heirs.

8. Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs, the Public Trustee without obtaining letters of administration may take possession of such real estate and if necessary may bring an action, either in his own name, on behalf of His Majesty, or in the name of His Majesty, to recover possession of such real estate and shall be entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1937, c. 116, s. 8.

9. Where a person has died intestate in Ontario and administration has been granted to some person not one of the next of kin, and it is doubtful whether the intestate left any next of kin him surviving, or there are no known next of kin resident in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and any competent court may revoke such administration, and grant administration to the Public Trustee. R.S.O. 1937, c. 116, s. 9.

Application by Public Trustee to compel an account by administrator in certain cases.

10. Money realized from estates to which the Public Trustee is administrator under this Act or which he has recovered under section 8, shall be kept in such bank or invested in such manner as the Lieutenant-Governor in Council may direct, and all such money which has been unclaimed for 10 years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1937, c. 116, s. 10.

Disposition of moneys.

11. Any person proving title to such money shall be entitled to receive the same with interest at such rate as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 116, s. 11.

Interest on money claimed.

12. Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights in respect thereto, and the court may direct such inquiries as may be necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands the same. R.S.O. 1937, c. 116, s. 12.

Remedy of persons having claims upon the estate.

13. The Public Trustee may deduct from the money received on account of any estate all disbursements made by him in respect to inquiries which he may have made before taking out letters of administration, as well as disbursements otherwise made by him in respect to the estate and a commission for his services not exceeding five per cent of all moneys received by him as administrator. R.S.O. 1937, c. 116, s. 13.

Right of Public Trustee to disbursements and commission.

14.—(1) After having given the notice provided for by *The Trustee Act*, and notwithstanding that the 10 years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining in his hands unclaimed into the Consolidated Revenue Fund, or may pay the same or

Distribution of assets by Public Trustee.

Rev. Stat., c. 400.

any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieutenant-Governor in Council, made under *The Escheats Act*.

Rev. Stat.,
c. 116.

Non-liability
of His
Majesty
and the
Province.

(2) In such case no claim shall be maintained against His Majesty or the Province in respect of any money or personal property paid over or assigned to any person under *The Escheats Act*, or under this Act; but this shall not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who may have received the same under the authority of an Order in Council. R.S.O. 1937, c. 116, s. 14.
